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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/621,677	07/24/2000	Guy Nathan	871-85	6899
23117 7590 10/02/2007 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			EXAMINER SALTARELLI, DOMINIC D	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 10/02/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/621,677

Applicant(s)

NATHAN, GUY

Examiner

Dominic D. Saltarelli

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 9, 2007 has been entered.
2. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Response to Arguments

3. Applicant's arguments filed July 9, 2007 have been fully considered but they are not persuasive.

Applicant argues against the examiner's use of official notice regarding routines for selecting new content to download which employ collaborative filtering, asserting that such routines, were not in fact well known at the time.

In response, the examiner provided, in the advisory action mailed on July 23, 2007, U.S. Patent No. 5,790,935 to Payton, who teaches using collaborative filtering to dynamically select new content to download (see Payton, col. 2 line 61 - col. 3 line 17).

Applicant also argues against the examiner's use of official notice regarding reward routines which reward a user with a free product in return for filling out a questionnaire, were not in fact well known at the time.

In response, the examiner provided, in the advisory action mailed on July 23, 2007, U.S. Patent No. 5,721,827 to Logan et al., who teaches providing rewards in the form of a free product in return for filling out a questionnaire (see Logan et al. col. 40, lines 22-42).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. (5,355,302, of record) [Martin] in view of Wilder (5,408,417, of record) and Banks et al. (5,559,714, of record) [Banks].

Regarding claim 21, Martin discloses a jukebox system, connected to a distribution network controlled by a host server (fig. 1) comprising:

a display, operable to display at least a customer interface, wherein the customer interface comprises at least one displayed option, corresponding to at least one song, for selecting the corresponding song to be played (col. 7, lines 18-55);

a memory that stores at least songs that may be played on the jukebox apparatus in response to selections from a customer (col. 5, lines 8-25);

an audio reproduction system providing audio (fig. 1, audio reproduction 127 and speaker 129);

a communication system for enabling the jukebox device to communicate with the distribution network (illustrated in fig. 1, as the jukeboxes and central controller and connected via modems 17 and 19); and

a fee payment device for accepting payment of a fee (col. 5, lines 42-59);

wherein the display is further operable to display at least one option for selecting a song not yet available on the jukebox device for download to the jukebox device (col. 6, lines 3-7 and col. 7, lines 10-17).

Martin fails to disclose the display comprises a touch screen portion and the displayed options are touch selectable, and the display is still further operable to display a questionnaire, different from touch selectable options for selecting songs for playback and touch selectable options for selecting songs for download, comprising one or more questions for gathering customer information, wherein the touch-screen is operable to accept customer input corresponding to the answers to the one or more questions, and wherein the answers are saved to a questionnaire response file in the memory, and a song request routine for requesting at least one new song for download from the host server, wherein the at least one song is determined as a function of the answers saved in the questionnaire response file.

In an analogous art, Wilder teaches an audiovisual reproduction system with a touch screen for user selections (col. 4, lines 13-22), providing an intuitive form of user selections from a very flexible interface.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Martin to include a touch screen, as taught by Wilder, for the benefit of providing an intuitive form of user selections from a very flexible user interface.

Martin and Wilder fail to disclose the display is still further operable to display a questionnaire, different from touch selectable options for selecting songs for playback and touch selectable options for selecting songs for download, comprising one or more questions for gathering customer information,

wherein the touch-screen is operable to accept customer input corresponding to the answers to the one or more questions, and wherein the answers are saved to a questionnaire response file in the memory, and a song request routine for requesting at least one new song for download from the host server, wherein the at least one song is determined as a function of the answers saved in the questionnaire response file.

In an analogous art, Banks teaches a vending machine system wherein a display is operable to display a questionnaire comprising one or more questions for gathering customer information, operable to accept customer input corresponding to the answers to the one or more questions, and wherein the answers are saved to a questionnaire response file in the memory (col. 7, lines 44-65), providing the benefit of valuable customer feedback regarding customer interests and information to interested parties (col. 8, lines 37-49).

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Martin and Wilder to include display of a questionnaire comprising one or more questions for gathering customer information, operable to accept customer input corresponding to the answers to the one or more questions, and wherein the answers are saved to a questionnaire response file in the memory, as taught by Banks, providing the benefit of valuable customer feedback to interested parties, such as content distributors and/or marketing firms.

Martin, Wilder, and Banks fail to disclose a song request routine for requesting at least one new song for download from the host server, wherein the at least one song is determined as a function of the answers saved in the questionnaire response file.

The method of selecting content to make available to users based on information gathered about said users is notoriously well known in the art. Called "collaborative filtering", it is the method of inferring the tastes users from other information such as demographic information, psychographic information, and content consumption history and patterns, often gathered in the form of surveys, and using these inferences to select content such as advertisements, television programs, movies, and music that would most likely be of interests to the public or a particular group of users.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Martin, Wilder, and Banks to employ collaborative filtering using the stored results of the questionnaire response file, to infer desirable song titles and provide a more attractive selection of songs to users of the system.

Regarding claims 22 and 23, Martin, Wilder, and Banks disclose the system of claim 21, further discloses a determination routine for determining whether the questionnaire was completed (Banks, col.7 lines 58-60) but fail to

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disclose a reward routine for rewarding the customer with a free song selection for completing the questionnaire.

Providing rewards for filling out customer surveys and questionnaires is notoriously well known in the art. Said rewards are often provided as an incentive to encourage customers to fill out questionnaires that they would otherwise find too tedious or distracting to fill out otherwise.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system of Martin, Wilder, and Banks to include providing a reward for filling out the questionnaire (wherein the redemption currency is a free song selection, as this is the type of vending machine in use, as taught by Martin), for the benefit of providing incentive to customers to fill out said questionnaires.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D. Saltarelli whose telephone number is (571) 272-7302. The examiner can normally be reached on Monday - Friday 9:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DS


ANDREW Y. KOENIG
PRIMARY PATENT EXAMINER